

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RANDY WHITE,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 11-11388

Hon. Gerald E. Rosen

Magistrate Judge Laurie J. Michelson

**ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on September 25, 2012

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

On February 27, 2012, Magistrate Judge Laurie J. Michelson issued a Report and Recommendation ("R & R") recommending that the Court deny Plaintiff Randy White's motion for summary judgment and grant the Defendant Commissioner of Social Security's motion for summary judgment. Plaintiff filed an objection to the R & R on March 12, 2012, and Defendant filed a response to this objection on April 9, 2012. The Court has now reviewed the R & R, Plaintiff's objection, Defendant's response, the parties' underlying motions, and the remainder of the record. For the reasons stated below, the Court finds no merit in Plaintiff's objection, and therefore adopts the

Magistrate Judge's R & R as the opinion of this Court.

As his sole objection to the R & R, Plaintiff suggests that the Magistrate Judge "failed to resolve the critical issue" in this case — namely, whether substantial evidence existed in the administrative record to support the decision of the Administrative Law Judge ("ALJ") to discount Plaintiff's testimony that he needed to lie down four hours a day. (Plaintiff's Objection at 2.) Yet, in making this assessment of Plaintiff's credibility, the ALJ expressly stated that "[t]he objective medical evidence does not corroborate [Plaintiff's] allegation that he must lie down 4 hours per day." (Admin. Record at 19.) While Plaintiff takes issue with this reading of the medical record, the evidence he cites in support of this challenge was thoroughly canvassed in the Magistrate Judge's R & R, including (i) the opinions, clinical findings, notes, and records of Plaintiff's treating physicians, (*see* R & R at 10-11), (ii) the notes of Plaintiff's evaluation by Dr. Shah, (*see id.* at 12), and (iii) the records and findings associated with an August 30, 2005 MRI, (*see id.* at 12-13). As to each of these portions of the medical record, the Magistrate Judge noted the absence of evidence or medical findings that Plaintiff had to lie down four hours each day. (*See id.* at 10-13.)

The Magistrate Judge's analysis of this record, then, provides ample support for the ALJ's finding that the objective medical evidence failed to corroborate Plaintiff's testimony as to his need to lie down four hours per day. Although Plaintiff suggests that the ALJ "ignored" this medical record in making his assessment of Plaintiff's credibility, (Plaintiff's Objection at 2), the R & R correctly explains that the ALJ's assessment was

wholly consistent with this record.

For these reasons,

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's March 12, 2012 objection to the Magistrate Judge's February 27, 2012 Report and Recommendation is OVERRULED. IT IS FURTHER ORDERED that the Magistrate Judge's Report and Recommendation is ADOPTED as the opinion of this Court, as supplemented by the rulings in the present order. Finally, IT IS FURTHER ORDERED that, for the reasons set forth above and in the Magistrate Judge's Report and Recommendation, Defendant's November 17, 2011 motion for summary judgment (docket #13) is GRANTED, and Plaintiff's September 19, 2011 motion for summary judgment (docket #10) is DENIED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: September 25, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 25, 2012, by electronic and/or ordinary mail.

s/Shawntel Jackson for Ruth A. Gunther
Case Manager